

**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 12/20/05

AGENDA ITEM 7

WORK SESSION ITEM \_\_\_\_\_

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** Adoption of Interim Moratorium Ordinance on Condominium Conversions

**RECOMMENDATION:**

It is recommended that the City Council find that the moratorium is categorically exempt from CEQA and introduce the attached ordinance adopting a moratorium on land use approvals of condominium conversions in the City of Hayward.

**DISCUSSION:**

On October 11, 2005, staff presented a report to the City Council on possible revisions to the Subdivision Ordinance relating to residential condominium conversions. The report briefly addressed the history of condominium conversion regulations within Hayward, including the original provisions governing such conversions adopted in 1981 and the changes adopted by City Council in 1995 in conjunction with adoption of the seventy percent homeownership goal in the Housing Element.

The report also outlined recent trends in housing costs and financing that have spurred a new, heightened demand for ownership housing for moderate income households and the consequent interest in converting existing rental units to ownership condominium status. It also delineated the difference between residential developments that were approved as condominiums under a subdivision tract map, but rented for some period of time, and multifamily rental developments that were approved without a condominium subdivision map. The Montierra Condominiums, formerly Clarendon Hills Apartments, on Alquire Parkway are an example of the former development type and the Creekwood Apartments on City Center Drive are an example of the latter. Staff specifically sought Council comment on a limitation on the number of units to be converted, appropriate parking ratios, whether site plan review should be required, and the adequacy of tenant assistance provisions.

Staff proposed to draft revisions to the existing ordinance on those issues for consideration by various interested parties, including the Rental Housing Owners Association, the Chamber of Commerce, Congregations Organizing for Renewal and other housing and tenant representatives. Council members expressed particular concern about the adequacy of buyer

and tenant protections and tenant assistance in the current ordinance. It was suggested that staff could return to Council a revised ordinance before the end of this year.

Since October, several unanticipated issues have arisen regarding the provisions of the current ordinance that were not discussed with Council. These relate specifically to the requirement that each unit in the project must be issued a Certificate of Occupancy by the Building Official prior to initial sale of the unit and that the issuance of the Certificate of Occupancy be based on the building code in effect at the time of the inspection. Given the changes in building codes over the last ten to fifteen years, it is likely that cost of meeting that standard would be substantial. The current building code requirements for one hour walls, draft stops in attics, energy saving insulation, lower egress window sill heights, seismic strength and disability access are certain to have a significant impact not only on the cost of conversions, but also on their physical viability. In addition, there are other standard condominium requirements that require further consideration, including fire sprinklers, separately metered utilities and individual sewer laterals.

Because these issues are essential to assuring the health and safety of the residents of the units to be converted, staff recommends that a more comprehensive analysis be undertaken prior to revising the condominium conversion provisions of the subdivision ordinance. It is estimated that this analysis could not realistically be completed by the end of the year as originally estimated, given the current workload and staffing levels.

The City continues to receive and must process inquiries regarding and applications for condominium conversions. In order to give these inquiries and applications fair consideration, staff believes that the implications of the provisions on the building and fire codes, tenant and buyer protections and assistance, parking ratios and limitations on the number of conversions should be more fully identified and properly addressed.

Consequently, staff believes that it would be prudent for City Council to establish a moratorium on land use approvals for condominium conversions. The City has the power to adopt, as an urgency measure, an interim moratorium ordinance prohibiting any uses in a zone for a period of 45 days. After the requisite public hearing, the Council may extend the interim ordinance for up to 10 months and 15 days. A moratorium of this duration would have limited impact on property owners in the short run and significant benefits in the long run, providing the security that due consideration is given to the existing condominium conversion regulations and any recommended changes designed to better protect the public health, safety and welfare.

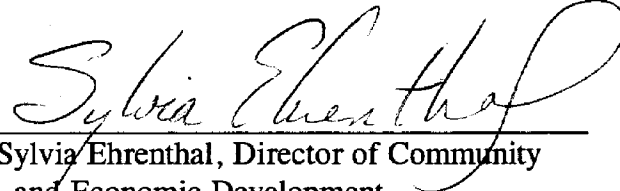
Therefore, staff recommends that the Council adopt an urgency measure this evening placing a 45-day moratorium on land use approvals for condominium conversions within the City of Hayward.

The law provides that such an urgency measure requires a four-fifths vote of the Council, but does not require notice or a public hearing. Such notice and public hearing would be provided should the Council agree to extend the moratorium. At that time, Council would be provided a more complete report on the need to extend the moratorium and on any changes in its scope or

duration that may be appropriate. The proposed timeline for the ordinance review effort envisions it being complete in approximately three to four months. Even considering the need to draft and hold hearings on any ordinance changes subsequently, it is unlikely that this process will require the full term of the extension.

The proposed action is exempt from CEQA based on CEQA Guidelines 15061(b)(3), projects which have no potential for causing a significant impact on the environment.

Recommended by:

  
Sylvia Ehrenthal, Director of Community  
and Economic Development

Approved by:

  
Jesús Armas, City Manager

Attachments: A. Current Regulations  
Draft Ordinance

- (j) **Stock Cooperative.** A corporation which is formed or availed primarily for the purpose of holding title to, either in fee simple or for a term of years, improved real property, if all or substantially all of the shareholders of such corporation receive a right of exclusive occupancy in a portion of the real property, title to which is held by the corporation, which right of occupancy is transferrable only concurrently with the transfer of the share or shares of stock in the corporation held by the person having such right of occupancy.
- (k) **Unit.** The elements of a condominium that are not owned in common with the owners of other condominiums in the project, or is an apartment in a community apartment project to which the owner has a right of exclusive occupancy.

SEC. 10-3.360 PARCEL MAP NOT REQUIRED. If a project for a condominium, community apartment, or stock cooperative of four units or less involves only one parcel, and said parcel is shown on the latest adopted county tax roll, a tentative map or a parcel map will not be required.

SEC. 10-3.365 TENTATIVE MAP FOR CONDOMINIUM OR COMMUNITY APARTMENTS. The tentative map shall contain all the information required on a tentative map for any subdivision, plus the following:

- (a) The location indicated to the nearest one-half foot of the perimeter of the building or buildings in relationship to the parcel boundaries;
- (b) Estimated square footage of each unit and number of rooms in each unit;
- (c) General layout of all common areas;
- (d) General layout and location of all facilities and amenities provided within the common area for the use and enjoyment of the unit owners;
- (e) General layout of all parking spaces and driveways;
- (f) Public areas proposed for dedication, scenic easements proposed, land or money in lieu of land for park purposes;
- (g) Tree and landscaping removal or planting proposed.

SEC. 10-3.370 ADDITIONAL REQUIREMENTS FOR CONVERSION TO CONDOMINIUMS, COMMUNITY APARTMENTS, OR STOCK COOPERATIVES.

- (a) Notification of Tenants and Prospective Tenants.

1. At least 60 days prior to the time of the filing of a tentative map for the conversion of rental units to community housing, the

subdivider shall send to each tenant of the building to be converted the following notice:

To the occupant(s) of

\_\_\_\_\_  
(address)

The owner(s) of this building, at (address), plans to file an application with the City of Hayward to convert this building to a (condominium, community apartment, or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

\_\_\_\_\_  
(signature of owner or owner's agent)

\_\_\_\_\_  
(date)

2. Commencing at a date not less than 60 days prior to the filing of a tentative map for the conversion of rental units to community housing, the subdivider shall give notice of such filing to each person applying after such date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider. The notice shall be as follows:

To the prospective occupant(s) of

\_\_\_\_\_  
(address)

The owner(s) of this building, at (address), has filed or plans to file a tentative map with the City of Hayward to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the City of Hayward and until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to sections 66451.3 and 66452.5 of the

Government Code and you have the right to appear and the right to be heard at any such hearing.

\_\_\_\_\_  
(signature of owner or owner's agent)

\_\_\_\_\_  
(date)

I have received this notice on \_\_\_\_\_  
(date)

\_\_\_\_\_  
(prospective tenant's signature)

Failure by a subdivider or his or her agent to give the notice required shall not be grounds to deny the conversion. However, if the subdivider or his or her agent fails to give notice pursuant to this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice, and who does not purchase his or her unit pursuant to paragraph 4 of subsection (b), an amount equal to the sum of the following:

- (i) Actual moving expenses incurred when moving from the subject property, not to exceed \$1,000;
- (ii) The first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, not to exceed \$1,000.

3. Within 10 days after the filing of a tentative map for the conversion of rental units to community housing, the subdivider shall send to each tenant of the building to be converted, and provide to each person who becomes a tenant at any time subsequent to such date, a written notice containing the following information:

- (i) That the owner of the building in which the tenant resides has filed an application with the City to convert the building to a condominium, community apartment, or stock cooperative project, the date such application was filed, and if approved, that tenants will eventually be required to move unless they purchase a unit or qualify for and accept an offer of a lease as provided in this ordinance;

- (ii) That each tenant will be given at least 10 days' prior written notice by the City (at subdivider's expense) of the date, time, and place of any hearing held on the tentative map application by the Planning Commission or City Council;
  - (iii) That each tenant will receive a copy of the staff report on the application by mail at least three days prior to such hearing, and that each tenant has the right to appear and be heard at such hearing;
  - (iv) That each tenant will be notified in writing of the approval of the final map approving the conversion, if it is approved, within 10 days of such action; and
  - (v) That each tenant will receive 10 days' written notification from the subdivider that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request when it has been issued.
4. Accompanying the notices required by paragraphs 1 and 2 of subsection (a) shall be written information describing, in general terms, what steps and actions the subdivider and others, including governmental agencies, must take in order for the building to be converted to a condominium or community apartment project or a stock cooperative. It shall also include information on what rights the tenants have. Specifically included with this information shall be:
- (i) A copy of "Tenant Rights on Conversion" as set forth in subsection (b); and
  - (ii) The subdivider's proposed Tenant Assistance Plan, prepared by the subdivider in accordance with subsection (c).

All documents referred to in this subsection shall be in a format approved by the Planning Director.

5. All notices referred to in this section shall be sent by certified mail.

- (b) Tenant Rights on Conversion. With regard to any conversion as defined above, each tenant shall have the following rights.

- 1. After receipt of the notice of intent to convert, each tenant will be permitted to terminate any lease or rental agreement without penalty upon written notification to the subdivider at least 30 days in advance

of such termination, provided, however, that this requirement shall cease upon notice to the tenant of the abandonment of subdivider's efforts to convert the building as evidenced by formal withdrawal of the application for subdivision approval.

2. Notwithstanding the date of construction of buildings proposed for conversion, or the number of rental units, each unit shall be subject to any rent stabilization ordinances adopted by the City of Hayward from the date of notification of intent to convert until the date the unit is sold; provided, however, that this requirement shall cease upon the happening of any of the following events:
    - (i) Abandonment of the subdivider's efforts to convert the building(s) as evidenced by formal withdrawal of the application for subdivision approval;
    - (ii) Execution of leases in accordance with paragraphs 1 and 2 of subsection (c).
  3. Each tenant will have a right of occupancy of 180 days from the date of the receipt of a notice from the subdivider that a subdivision public report has been issued by the Department of Real Estate; provided, however, that this subsection shall not alter or abridge the rights or obligations of the parties in the performance of their covenants, including but not limited to, the provision of services, payment of rent, or the obligations imposed by sections 1941, 1941.1, and 1941.2 of the Civil Code of the State;
  4. Each tenant will have an exclusive right or option to contract for the purchase of the dwelling unit or the share controlling the dwelling unit then occupied by the tenant, or any other available unit in the building, upon the same or more favorable terms and conditions than those on which such unit will be initially offered to the general public, and that such rights shall run for a period of not less than 90 days from receipt of a notice from the subdivider that a subdivision public report has been issued by the Department of Real Estate, unless the tenant gives prior written notice of intention not to exercise that right;
  5. No remodeling of the interior of tenant occupied units shall begin without consent of the tenant;
  6. No tenant may be evicted without just cause.
- (c) Tenant Assistance Plan. The Tenant Assistance Plan is a plan proposed by the subdivider to assist tenants who were in residence at the time of notification of intent to convert in securing decent, safe, sanitary, and

affordable replacement housing, either through relocation or purchase or lease of a converted unit. The subdivider shall describe those incentives and inducements that would increase the potential for, and ability of, tenants to become owners in the conversion, and shall also include actions and procedures to enable hard-to-relocate tenants to remain as tenants. The subdivider shall include all relocation and moving assistance and information to be provided to each tenant and also all steps the subdivider will take to ensure successful relocation of the tenants involved. In all cases, the Tenant Assistance Plan must meet the following minimum standards:

1. Lifetime leases shall be offered to elderly tenants and disabled tenants (as defined in paragraph 4 of subsection (d)) for the unit they occupy or, at the option of the tenant(s), for any other available unit in the project. Such lease rights shall expire no earlier than 180 days from the date of receipt of notice from the subdivider that a subdivision public report has been issued by the Department of Real Estate and such lease shall include the following conditions.
  - (i) Tenants shall have the option of canceling the lease at any time upon thirty (30) days' written notice to the owner;
  - (ii) Tenants cannot be evicted except for just cause;
  - (iii) Right of occupancy shall be nontransferable;
  - (iv) The first year's base monthly rent for the unit shall be set at no more than the rent existing on the unit at the time of the filing of the tentative map or tentative parcel map;
  - (v) Subsequent rent adjustments, if any, may be made no sooner than one year from the effective date of the lifetime lease, and shall be limited to no more than one per year, and to the annual percentage change in the U.S. Bureau of Labor Statistic's Consumer Price Index (CPI) for the San Francisco Bay Area.
  - (vi) Except as provided hereinabove, terms and conditions of the lifetime lease shall be the same as those contained in tenant's current lease or rental agreement.
2. Leases of at least two years shall be offered to tenants with a child or children under 18 years of age residing with them for their unit or, at tenant's option on any other available unit in the project. Such lease rights shall expire no earlier than 180 days from the date of receipt

of a notice from the subdivider that a subdivision public report has been issued by the Department of Real Estate and any such lease shall be subject to the same conditions as set forth above in paragraph 1 of subsection (c).

3. Assistance to Tenant-Purchasers.

- (i) Reimbursement shall be made to tenant-purchasers for costs incurred as a result of temporary displacement during remodeling, including but not limited to, moving expenses and differentials in rents or temporary housing charges.
- (ii) Payment shall be made to tenant-purchasers of \$1,000, which shall be applied towards the tenant-purchasers' down payment and/or closing costs.

4. Relocation assistance shall be provided to displaced tenants in the form of:

- (i) A complete current listing of vacant available replacement housing in the Hayward Planning Area which is comparable in location, size, amenities, and cost to the unit being converted and meets special needs of the household to be displaced;
- (ii) Financial assistance, including but not limited to, payment of \$1,000 (per household) 30 days in advance for moving from the subject property, except that the actual amount of moving expenses shall be paid to elderly and disabled households;
- (iii) Payment of the difference in rents between another comparable rental unit, if located within a 50-mile radius, and the converted unit for a period of one year.

(d) Tentative Map Application Requirements. In addition to the other requirements of the Subdivision Ordinance, the subdivider shall include with the tentative map the following information:

- 1. Consent forms, as may be required;
- 2. One copy each of the notices and other documents to be provided to all tenants pursuant to subsection (a);
- 3. A rental history consisting of a complete list of the rents for each unit in the project over the previous two years;

4. A renter profile listing the names and addresses of current tenants, length of tenancy, and the number of tenants in the project in the following categories:
  - (i) Elderly, being any person who is over 62 years of age;
  - (ii) Disabled, being any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such impairment, or is regarded as having such an impairment;
  - (iii) Family households, having as members of the household children who are under 18 years of age.
  - (iv) Full-time college students. Students enrolled in an institution of higher learning such as a community college, technical school, college, or university, taking at least 12 units in any given semester.
5. A report from the City Building Official, based on an inspection of a random sample equal to or greater than 10 percent of the total number of units, advising if the dwelling units would be eligible for issuance of Certificates of Occupancy based on the building code in effect at the time of inspection, and if ineligible, listing those deficiencies which would have to be corrected;
6. A report describing the condition of and estimating the remaining useful life of the following elements: roof, exterior painting, paved surfaces, central or community heating and air conditioning systems, hot water heaters, and where they are reasonably accessible for inspection, other electrical, plumbing, and mechanical equipment; said report to be prepared by a contractor or engineer who is licensed in the element being reviewed;
7. A structural pest control report prepared by a licensed pest control operator pursuant to section 8516 of the California State Business and Professions Code;
8. A report prepared by an acoustical engineer demonstrating that wall and floor ceiling assemblies conform to the sound insulation performance criteria promulgated in Title 24, California Code of Regulations, section 1092, or its successor, and indicating whether permanent mechanical equipment, including domestic appliances, should be shock mounted, isolated from the floor and ceiling, or otherwise installed in a manner to lessen the transmission of vibration and noise.

- (e) Requirements for Approval of Tentative Maps. No tentative map for the conversion of rental housing units to community housing shall be approved unless the following findings are made:
1. The project is consistent with the housing goals and policies of the City of Hayward General Plan;
  2. The project is suitable for conversion to community housing as determined by a review of its physical characteristics, including those reports as required by paragraphs 5, 6, 7, and 8 of subsection (d);
  3. The proposed Tenant Assistance Plan and related information required by subsection (c) and paragraphs 3 and 4 of subsection (d) is acceptable and consistent with the purposes of these regulations;
  4. Sufficient replacement housing exists within the Hayward Planning Area to accommodate those tenants displaced as a direct result of the proposed conversion, as evidenced by information provided in paragraph 4(a) of subsection (e).

- (f) Information to be Filed with Final Map. In addition to the other requirements of the Subdivision Ordinance, the subdivider shall include with the Final Map the following information:

1. One copy of the application for a Public Report filed by the subdivider with the State Department of Real Estate;
2. The proposed organizational documents, including the declaration of covenants, conditions, and restrictions, the proposed sales price of each unit, and the estimated homeowner association dues;
3. One copy of notices to tenants required by section 66427.1 of the Subdivision Map Act together with evidence of each tenant's receipt of same;
4. One copy of the Tenant Assistance Plan required by subsection (c) as approved with the tentative map;
5. One copy of each document described in paragraphs 5, 6, 7, and 8 of subsection (d) as approved with the tentative map;
6. A report disclosing the amount of deposit to be provided by the subdivider, and the manner in which it was calculated, to defray expenses to be incurred by the association in replacing the major mechanical and electrical equipment during the first five years.

- (g) Requirements for Approval of Final Maps. No final map for the conversion of rental housing units to community housing shall be approved unless the following findings are made:

1. The final map is in substantial conformance with the tentative map;
2. Each tenant has been or will be given notification as described in subsections (a) and (b);
3. Each dwelling unit in the project has been or will be issued a Certificate of Occupancy by the Building Official prior to initial sale of the unit;
4. Each prospective buyer has been or will be given a copy of each report described in paragraphs 5, 6, 7, and 8 of subsection (d) as approved with the tentative map.

- (h) Notice of Subdivision Public Report. Upon receipt of the subdivision public report, the subdivider shall notify, in writing, the Planning Director and each tenant in the building to be converted of the date of issuance of said report, such notification to be accompanied by a copy of the Tenant Assistance Plan as required by subsection (c) and approved with the final map, and copies of notices required by paragraphs 3, 4, and 5 of subsection (b).

SEC. 10-3.375 STANDARDS OF DEVELOPMENT. Except as herein provided, standards in the Zoning Ordinance, Municipal Code, and General Plan, including the Housing Element, if a residential subdivision, shall apply, and the standards for improvements within the common area shall be those expressed as conditions to approval of the tentative map.

Parking shall be provided within the boundaries of the project at no less than 1.7 spaces per dwelling unit for those projects located within one-quarter mile of a transit corridor (e.g., major bus line) or within one-half mile of a transit hub (e.g., BART station). Additional parking may be required where on-street parking within the street width allowed in section 10-3.505 or public transportation is inadequate, or the number of bedrooms or type of occupancy is such that additional off-street parking is necessary to minimize on-street parking impacts upon the neighborhood.

SEC. 10-3.380 UTILITIES. Each unit shall be individually metered for water service and each unit shall have an individual lateral connection to a public sewer main. An exception to these requirements may be approved by an approving body, based on a recommendation by the City Engineer, that such individual connections are not in the best interest of the project or the City.

SEC. 10-3.385 ORGANIZATIONAL DOCUMENTS. There shall be required covenants, conditions and restrictions (CC&Rs), and the formation of an association or corporation for the purpose of managing and maintaining the project. This section shall also be applicable to residential Planned Developments (PD).

The CC&Rs shall state that the City of Hayward has the right to abate public nuisance conditions in the common area if the association or corporation fails to do so, and to assess the cost to the association, corporation or individual unit owners. In order to accomplish this, the CC&Rs shall contain the following typical statements.

In the event the Board fails to maintain the exterior portions of the common area so that owners, lessees, and their guest suffer, or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety, and welfare of the residents in the project, the City of Hayward, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain said exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence correction of such conditions in no more than 30 days from delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Hayward within 30 days of written demand. Upon failure by the Board to pay within said 30 days, the City of Hayward shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.

It is understood that by the provisions hereof, the City of Hayward is not required to take any affirmative action, and any action undertaken by the City of Hayward shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety, and general welfare, and to enforce it and the regulations and ordinances and other laws.

It is understood that action or inaction by the City of Hayward, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations, and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.

It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy. In this connection it is understood and agreed that the failure by the Board to maintain the exterior portion of the common area shall be deemed to be a public nuisance, and the City of Hayward shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.

The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within 10 days of receipt of a copy of the resolution.

The above five paragraphs cannot be amended or terminated without the consent of the Hayward City Council.

**SEC. 10-3.392 INFORMATION TO PRECEDE FINAL MAP SUBMISSION.**

The following information shall be submitted for review prior to submittal of the final map.

- (a) Copy of applicant's proposed application for subdivision permit, in the event a permit is required, from the California State Department of Real Estate;
- (b) Proposed sale price of each unit;
- (c) A report describing the manner in which the terms of the declaration of restrictions will guarantee responsible maintenance and repair of the common areas, notwithstanding the escalation of costs, emergency maintenance repairs, and the replacement of major mechanical and electrical equipment;
- (d) A copy of notices to tenants required by section 66427.1 of the Subdivision Map Act together with evidence of each tenant's receipt of same.

**SEC. 10-3.395 PREPARATION AND FORM OF FINAL MAP.** Where five or more condominiums or community apartments are being created, a final map will be required. In addition to the other requirements for a certificate sheet, the title shall contain in bold letters an indication that this is a condominium, a community apartment, or a stock cooperative subdivision, and specify the number of units.

**DEDICATIONS AND RESERVATIONS**

**SEC. 10-3.400 DEDICATION FOR STREETS AND UTILITIES.** As a condition of approval of a map, the subdivider shall dedicate or make an irrevocable offer of dedication of the following:

- (a) All parcels of land within the subdivision that are needed for streets, alleys, including access rights and abutters' rights, drainage, public utility easements, and other public easements.

**DRAFT**

ORDINANCE NO. \_\_\_\_

**AN EMERGENCY ORDINANCE ADOPTING A 45-DAY  
MORATORIUM ON THE ISSUANCE OF USE PERMITS,  
VARIANCES, BUILDING PERMITS, SUBDIVISION MAPS  
AND OTHER LAND USE APPROVALS FOR  
CONDOMINIUM CONVERSIONS**

**THE CITY COUNCIL OF THE CITY OF HAYWARD DOES ORDAIN AS FOLLOWS:**

Section 1. This interim ordinance is adopted pursuant to the provisions set forth in Government Code Section 65858 and imposes a 45-day moratorium on the issuance of use permits, variances, building permits, subdivision maps or other land use approvals for the conversion of any existing rental multi-family housing units to a condominium, community apartment or stock cooperative pursuant to the City of Hayward's condominium conversion ordinance, Hayward Municipal Code Sections 10-3.350 *et seq.*

Section 2. The adoption of the 45-day moratorium on the issuance of use permits, variances, building permits, subdivision maps or other land use approvals for the conversion of any rental multi-family housing units to condominium, community apartment or stock cooperative is necessary because there is a current and immediate threat to the public health, safety and welfare and the approval of additional condominium conversions in that each condominium unit must be issued a Certificate of Occupancy by the City's Building Official prior to the initial sale of the condominium unit and that Certificate of Occupancy must be based on the building code in effect at the time of the inspection. Given the changes in the building codes over the past ten to fifteen years, it is likely that cost of meeting that standard would be substantial. The current building code requirements for one hour walls, draft stops in attics, energy saving insulation, lower egress window sill heights, seismic strength and disability access are certain to have a significant impact not only on the cost of conversions, but also on their physical viability. In addition, there are other standard condominium requirements that require further consideration, including fire sprinklers, separately metered utilities and individual sewer laterals. Other issues to be considered include tenant relocation assistance, parking ratios and the appropriate limitation on the number of condominium conversions that should be permitted in a given time period. Because these issues are essential to assuring the health and safety of the residents of the units to be converted, a comprehensive analysis must be undertaken prior to revising the condominium conversion requirements of the City's subdivision ordinance. The 45-day moratorium will help preserve the status quo pending the adoption of a revised condominium conversion ordinance.

Section 3. The Planning Director is hereby authorized to administer and interpret the provisions of this emergency ordinance, including but not limited to, review of specific use permits applications, variance requests, building permit applications, subdivision maps and other land use approvals, to determine whether the requested use permit, variance, building permit, subdivision map or other land use approval is subject to the terms of this interim ordinance.

Section 4. The Planning Director shall also prepare a written report describing the measures which will be taken to alleviate the conditions that necessitated the adoption of this interim ordinance. The Planning Director's report shall be presented to the City Council at least ten days before the date on which this ordinance expires.

Section 5. The moratorium established by this ordinance shall remain in effect for a maximum period of 45 days after the City Council's adoption of this ordinance by at last six affirmative votes.

INTRODUCED at a regular meeting of the City Council of the City of Hayward, held the \_\_\_\_ day of \_\_\_\_\_, 2005, by Council Member \_\_\_\_\_.

ADOPTED at a regular meeting of the City Council of the City of Hayward held the \_\_\_\_ day of \_\_\_\_\_, 2005, by the following votes of members of said City Council.

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: \_\_\_\_\_  
Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward